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FM USMISSION USUN NEW YORK  
TO RUEHC/SECSTATE WASHDC 3223  
INFO RUEHXR/RWANDA COLLECTIVE  
RUEHGG/UN SECURITY COUNCIL COLLECTIVE  
RUEHTC/AMEMBASSY THE HAGUE 8964

UNCLAS USUN NEW YORK 001095

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E.O. 12958: N/A

TAGS: [PARM](#) [PREF](#) [PREL](#) [RW](#)

SUBJECT: NOV 28 ICTY/ICTR UNSC WORKING GROUP MEETING ON  
RESIDUAL ISSUES

¶1. SUMMARY: Members of the UNSC Working Group on Residual Issues concerning the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) met on November 28 to discuss a non-paper prepared by the Chair (Indonesia) on the preparation and consideration of the Joint Paper on Legacies and Residual Functions of the Ad Hoc Tribunals. Members welcomed the non-paper and agreed to convene a Working Group meeting to begin substantive discussions immediately after the Group's meeting with ICTY/ICTR leadership on December 10. Russia urged members to treat the January 1, 2009 date for the tribunals' completion as a deadline for completing the Working Group's report. END SUMMARY.

¶2. Members generally agreed with the approach set out in the Chairman's (Indonesia) non-paper regarding the Working Group's consideration of the Joint Paper on Legacies and Residual Functions. As a technical point, China proposed the Working Group also allocate time to consider the Office of the Legal Adviser's (OLA) recent legacy issues report on the Nuremberg Tribunal. Members then turned their discussion to the issue of which relevant states to consult, upcoming consultations with ICTY/ICTR leadership and a timeline for the completion of the Working Group's consideration of the Joint Paper.

¶3. Qatar used the meeting to push for a more precise definition of "relevant states" and to begin a substantive discussion of the Joint Paper. Regarding relevant states, most members remarked that the concept was already clear based on past meetings where the Working Group included States affected by or involved with the functions of the tribunals. USUN reiterated its preference to continue the practice of engaging relevant States through "Informal, informal" consultations. USUN added that the question of which relevant States to invite to such sessions should depend on the issues to be discussed. Belgium asked whether the Working Group's work should be shared among a broader circle of stakeholders. The United Kingdom and France said members could consider this option at a later point, but for now the Working Group's focus should be on States immediately concerned with or affected by the work of the tribunals.

¶4. Italy's Legal Adviser (who will take over as the Group's Chair in December) noted that scheduling constraints would make a Working Group meeting before the December 10th meeting with the tribunals' principals unrealistic. Members agreed that the Working Group will convene immediately after the Group's meeting with ICTY/ICTR leaders to begin substantive discussions.

¶5. Russia reminded members that the completion strategy requires the tribunals to enter the completion stage as of January 1, 2009; therefore, the Working Group should aim to

complete its report by the end of 2008. China echoed Russia's view and added that the Working Group was obligated to consider the date in the completion strategy as a firm deadline. The United Kingdom said using the date in the completion strategy was logical and wondered whether the Working Group should also aim to address outcomes by the January 2009 deadline.  
Khalilzad